

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7771 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.R.SHELAT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

ABDULRAHIM MIRZAKHAN SAIYED

Versus

UNION OF INDIA

Appearance:

MR JB PARDIWALA for Petitioner
MS PJ DAVAWALA for Respondent No. 1
Mr. S.S. Patel, AGP for Respondent No. 2
NOTICE SERVED for Respondent No. 4

CORAM : MR.JUSTICE H.R.SHELAT

Date of decision: 13/09/2000

ORAL JUDGEMENT

By this application, the petitioner prays for a direction in the nature of mandamus, quashing the order passed by the Regional Passport Officer denying the facility of passport under Section 6(2)(b)(i) of the Passport Act, 1967, etc.

2. The facts, giving rise to the present petition, may in brief be stated. The petitioner once in past held the passport bearing No. M/355 950. He on 23rd February 1988 presented a fresh application for passport. The respondent No.2 forwarded the same to respondent No.3 for police verification. The matter was being delayed and therefore in the month of February 1999 the petitioner personally approached the RPO with a request to expedite passing of necessary order qua his application. Thereafter the petitioner continued to press for the application and even supplied the necessary particulars filing the affidavit. However on 28th December 1994 he received the intimation from Regional Passport Officer intimating him to furnish his old passport. As the same was already surrendered, reply to that effect was given and a photo copy of passport was sent on 4th January 1995. Thereafter, the matter was being delayed for one or another reason. The petitioner was therefore constrained to prefer Special Civil Application No. 9470 of 1995 before this Court on 9th November 1995. On 9th February 1996 that application came to be disposed of with a direction to the respondents to take appropriate decision in the matter within two weeks from the date of the receipt of the order. Thereafter on 4th March 1996 time was extended for compliance of the order passed by this Court. The extended time also expired but the authority did not dispose of the application and therefore on 6th April 1996 Misc. Civil Application in Special Civil Application No. 9470 of 1995 was preferred for redressal of grievances and for issuance of necessary direction to the authorities who had paid no heed to the requests often made by the petitioner. On 14th August 1996, the petitioner received a letter intimating him that in the light of the police report from the District Superintendent of Police, Kheda (North), the passport facility was refused. The petitioner could see that the issue was given a political colour and because of the political motivation his application for the passport was unjustly turned down procuring a particular type of report from the police. No doubt, the Collector, Kheda, had passed the order on 5th June 1987 ordering him to detain under NASA and the Police Sub-Inspector Mr. Chauhan had arrested and detained him, but that detention order which was served on the petitioner was revoked by the State Government within a period of two days as the Government found the order to be absolutely malafide and abuse of powers. The order was passed with a view to defame him and to keep him away from the election of the local body at Nadiad. In fact there was no just cause to turn down his request for passport. He then filed this application for redressal of his such grievances and have

the aforesaid writ.

3. During the course of the hearing, a suggestion was made and that is accepted by the concerned advocates representing the parties. If the petitioner applies afresh for the passport, the concerned authority would decide the application afresh undergoing the required formalities. As this proposal has been accepted, necessary direction to the respondent No.2, if given, the petition can be disposed of, as nothing further then remains to be done in the matter.

4. In view of the matter, it is directed that the petitioner, if applies afresh for the passport, the respondent No.2 shall decide the application afresh undergoing the required formalities and appreciating the materials before him honestly and fairly and without being prejudiced by any other irrelevant consideration or events or facts not clinching the issue and the police would also without being guided by any factors or forces honestly and fairly make the report. With the aforesaid direction, the petition stands disposed of. Rule to the aforesaid extent is made absolute.

rmr. -----